

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DEBRA ANN SMITH,

Plaintiff,

v.

CV 15-970 JCH/WPL

**NANCY A. BERRYHILL, *Acting
Commissioner of the Social Security
Administration,***

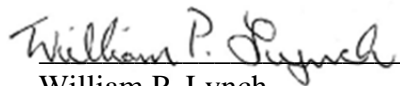
Defendant.

ORDER

This matter is before the Court on the parties' Stipulation of Award of Attorney Fees under the Equal Access to Justice Act (Doc. 35). Having reviewed the Stipulation and the record, I find that an award of fees is appropriate and that the amount of fees requested is reasonable.

IT IS THEREFORE ORDERED THAT the motion is GRANTED and Plaintiff is awarded \$6,850.00 in attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d). *See Astrue v. Ratliff*, 560 U.S. 586, 591-93 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED THAT, if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).



William P. Lynch
United States Magistrate Judge

Submitted by:

s/ Francesca J. MacDowell
Francesca J. MacDowell
Attorney for Plaintiff

Approved by email on 3/1/17 by:

Meghan Berglind, Special AUSA
Meghan Berglind, Special AUSA
Attorney for Commissioner